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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,989	08/21/2001	Michael H.B. Stowell	06618-045002	8355

'7590 06/09/2003
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San Diego, CA 92122

EXAMINER

MULLIS, JEFFREY C

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 06/09/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/934,989

Applicant(s)

STOWELL ET AL.

Examiner

Jeffrey C. Mullis

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1711

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): see attachment.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 2, 5, 6 and 8.

Claim(s) objected to: none.

Claim(s) rejected: 1, 4, 9 and 12-17.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Jeffrey C. Mullis
J Mullis
Art Unit: 1711

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ATTACHMENT TO ADVISORY ACTION

Applicants' arguments filed 5-22-03 have been fully considered but they are not deemed to be persuasive.

The objection regarding the symbol used in place of "Si" has been withdrawn. Applicants' claims now appear to contain periods and therefore any objection based on lack of periods at the end of the claims has been withdrawn.

Applicants' arguments filed 5-22-03 have been fully considered but they are not deemed to be persuasive.

With regard to the rejections under 35 U.S.C. § 112 first and second paragraphs, applicants' remarks rely upon Exhibits "A", "B" and "C". However the source of these exhibits is unclear and it therefore cannot be determined whether or not these exhibits have any bearing on what was known in the art at the time of the invention.

With regard to the rejection relying upon Lanquetin, this rejection is hereby withdrawn. With regard to the rejection relying upon Nakamura et al., the rejections of claims 9 and 12 have been withdrawn. However the rejection of claims 1 and 13-16 relying upon Nakamura et al. has been maintained. It is noted that although applicants argue that independent claim 1 has been amended to recite a silyl lipid molecule having a specific formula, Nakamura et al. specifically disclose the use of

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octyltrimethoxysilane which is embraced by applicants' structure in claim 1.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Mullis whose telephone number is (703) 308-2820. The examiner can normally be reached on Monday-Friday from 9:30 to 6:30.

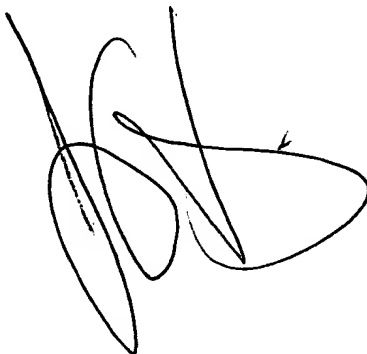
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on (703) 308-2462. The fax phone number for this Group is before final (703) 872-9310 and after final (703) 8729311.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2351.

J. Mullis:cdc

June 4, 2003

Jeffrey Mullis
Primary Examiner
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A handwritten signature in black ink, appearing to be 'JM', is written over the printed name and title of the examiner.